



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/169215

PRELIMINARY RECITALS

Pursuant to a petition filed October 05, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to Medical Assistance, a hearing was held on January 07, 2016, at Fond Du Lac, Wisconsin.

The issue for determination is whether Petitioner was overpaid BadgerCare+ benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Deborah Bohlman

Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.
2. Petitioner was sent a BadgerCare+ overpayment notice dated August 31, 2015. It Petitioner that she had been overissued BadgerCare+ benefits in the amount of \$3103.05 for the period from October 1, 2014 through May 31, 2015. The reason for the alleged overissuance was that Petitioner did not report employment and income.
3. The overpayment alleged consists of premiums paid by the State for Petitioner's health care coverage.

4. Petitioner applied for BadgerCare+ on February 20, 2014. An interview completing the application process was completed on March 11, 2014. That application was approved with eligibility beginning April 1, 2014. Positive notices were mailed to then address provided by Petitioner and to her daughter. Those notices did inform Petitioner that she had to report gross income in excess of \$972.50 per month. That did increase to \$980.83 as of February 1, 2015.
5. Petitioner left the country on or about April 1, 2014 for about 3 months.
6. When Petitioner returned to the States and Wisconsin in July 2014 she obtained employment. She was paid \$9.00 per hour. Her hours varied but were close to 80 hours every 2 weeks except for holiday periods in late 2014 and early 2015. Even so Petitioner's gross was well in excess of 100% of the Federal Poverty Level at all times relevant here – her lowest gross appears to have been in December 2014 and was still over \$1200.00.
7. Petitioner did not report her new employment until the annual case review in the spring of 2015.
8. Petitioner's household size for BadgerCare+ purposes is 1.

DISCUSSION

As of April 2014, adults without dependent children became eligible for the State BadgerCare+ Medicaid program. The income limit for these adults was, and is, 100% of the Federal Poverty Level. As of April 1, 2014 100% of the FPL for a group of was \$972.50 and it remained at that amount until February 1, 2015 when it increased to \$980.83. *See Operations Memo 15-05, at page 7.* As a practical matter Petitioner's income was always over 100% of the FPL for a group of 1 during the months of this alleged overpayment.

Further, at all times relevant here all medical assistance recipients were required to report certain changes to the agency within 10 days. *Wis. Admin. Code, § DHS § 104.02(6).* Those receiving BadgerCare Plus had to report changes in income when the income reached any of the following levels:

- 100% FPL
- 133% FPL
- 150% FPL
- 185% FPL
- 200% FPL
- 250% FPL
- 300% FPL
- 350% FPL
- 400% FPL

BadgerCare+ Eligibility Handbook, § 27.3; release 13-02, effective 10/1/13.

The Department may recover any overpayment of medical assistance that occurs because of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665 [BadgerCare].
 2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
 3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.
- Wis. Stat. § 49.497(1).*

Petitioner contends that she never got notice of approval of the BadgerCare+ application, never got a benefits card and ultimately obtained medical coverage through the employer. She argues that she had no idea she had to report the employment involved here.

I am sustaining the overissuances involved here. Positive notices were sent to Petitioner and her daughter. They were sent to the correct addresses. There is no record of return of those notices as undeliverable. I conclude that employment and income were not reported as required.

CONCLUSIONS OF LAW

That the agency has presented evidence sufficient to demonstrate that Petitioner was overpaid BadgerCare+ benefits as alleged.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

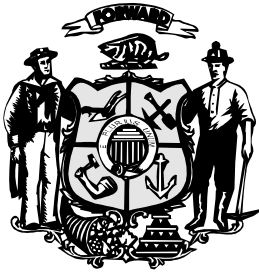
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 28th day of January, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 28, 2016.

Fond Du Lac County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability